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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,612	07/14/2004	Eric Sitbon		2221

Eric Sitbon  
9 Rue Du Croissant  
Paris,  
FRANCE

7590 06/14/2006

EXAMINER

MENEZES, MARCUS

ART UNIT PAPER NUMBER

3677

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/501,612	SITBON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marcus Menezes	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 13, 14 and 16-49 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. This is in response to claims 1-49 filed on July 14, 2004 in which claims 3-9, 11-27, 29, and 32-34 were replaced.
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because the heading should read Abstract or Abstract of the Disclosure. Correction is required. See MPEP § 608.01(b) and 37 CFR 1.72.

### ***Claim Objections***

4. Claims 1-49 are objected to because of the following informalities: All amendments to claims must list all claims including claims, which have not been amended, onto a single document. Appropriate correction is required.
5. Claims 1-49 are objected to because the preamble of each of these claims is non-idiomatic English; such as "bra as claimed" and "Device as claimed."

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6. Claim 12 is objected to because of the following informalities: the second line includes "pieces of the the end of greater". Examiner suggests deleting the extra "the". Appropriate correction is required.

7. Claim 20 is objected to because of the following informalities: the second line includes non-idiomatic English: "formed by or a strap". Examiner suggests deleting the "or" from the phrase. Appropriate correction is required.

8. Claim 20 is objected to because of the following informalities: the second line includes "one of the magnetic first and second parts". Examiner suggests changing the "and" to an – or. Appropriate correction is required.

9. Claim 21 is objected to because of the following informalities: the second line includes "one of the magnetic first and second components". Examiner suggests changing the "and" to an – or. Appropriate correction is required.

10. Claim 26 is objected to because of the following informalities: "leadst" in the second line should be changed to – least -- and "galvinization" in the third line should be changed to – galvanization. Appropriate correction is required.

11. Claim 27 is objected to because of the following informalities: "mentionned" in the third line should be change to – mentioned. Appropriate correction is required.

12. Claim 28 is objected to because of the following informalities: "accross" in the third line should be changed to – across. Appropriate correction is required.

13. Claim 35 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim is found in the recitation of "any of the preceding claims."

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See MPEP § 608.01(n). Accordingly, the claim 35 has not been further treated on the merits.

14. Claims 35-41 and 43-45 are objected to because of the following informalities: "it" recited in these claims should be further defined. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

15. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The "other element" stated in claim 4 is not clearly defined.

16. Claim 5 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot be written in cumulative form. Claim 5 currently states "any of the preceding claims". This phrase should be changed to read – any one of the preceding claims. See MPEP § 608.01(n). Accordingly, the claim 5 is not further treated on the merits.

17. Claim 10 recites the limitation "the magnetic field," "the higher plane," and "the bottom." There is insufficient antecedent basis for these limitations in the claim.

18. Claim 21 recites the limitation "aforementioned strap." There is insufficient antecedent basis for this limitation in the claim.

19. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The "magnetic zone" stated in claim 21 is not clearly defined.

20. Claim 28 recites the limitation "the opened slots" in the third line of the claim. There is insufficient antecedent basis for this limitation in the claim.

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21. Claims 35-49 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim (claim 5) cannot serve as a basis for any other multiple dependent claim (claim 35). See MPEP § 608.01(n) and 37 CFR 1.75(c). Accordingly, the claims 35-49 are not further treated on the merits.

22. Claims 36-49 recite the following: bra, garter belt, guepiere, watch, cap, sport shoe, bag, and skirt; all of which render the claims indefinite since there is a lack of antecedent basis for the bra, garter belt, guepiere, watch, cap, sport shoe, bag, and skirt in the base claim.

***Claim Rejections - 35 USC § 102***

23. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

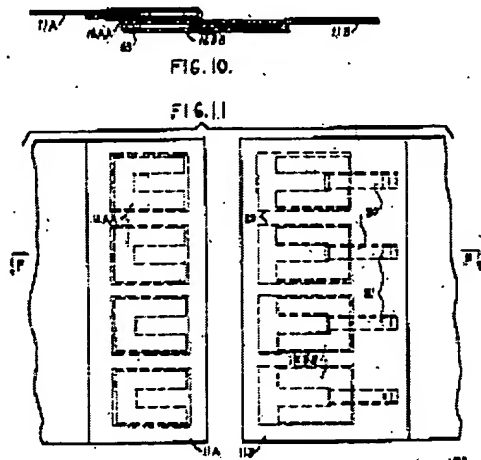
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

24. Claims 1,3,6,7,8,9,14,16,17,20,21,23,24,32,33, and 34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ellis (US Patent No. 2,389,298).

Regarding claims 1 and 3, Ellis discloses of an apparel fastener comprising of a first part equipped with at least one magnetic component (12BB) and a second part equipped with at least a second magnetic component (12AA). Ellis further discloses that this fastener is for securing clothing together. (See p. 1, col. 1, lines 1-5). Additionally, Ellis discloses that each magnetic component is composed of a magnet with positive and negative magnetic pieces, whereas the magnets of similar structure

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are fixed directly or indirectly to the same support and are able to interact with magnetic pieces of opposite signs on a second magnetic component. (See Fig. 10 and 11).



Regarding claim 6, Ellis discloses of magnets (12AA) of the same component fixed rigidly among each other in an irremovable way. (See Fig. 11 above). Regarding claim 7, Ellis discloses of at least one component of magnets that are laid out in alternation between positive and negative magnets. (See Fig. 11 above). Regarding claim 8-9, Ellis discloses of magnets of the same component that are fixed side by side on the supports (11A, 11B) and of positive magnets on the opposite side of negative magnets, allowing for overlap of each magnetic component. (See Fig. 11 above). Regarding claim 14, Ellis discloses of a first sheath on support 11B where the first component is inserted and is mobile and within the sheath. (See Fig. 11 above). Regarding claims 16 and 17, Ellis discloses of a second magnetic component (12AA) that is fixed and of first and second components comprising of two sheaths. (See Fig. 11 above). Regarding claim 20, Ellis discloses that one of the first or second parts (11A, 11B) are formed by a strap. (See p. 1, col. 1, lines 1-5). Regarding claim 21, Ellis discloses that of a magnetic field is formed by the magnetic component on the apparel

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strap. (See p. 1, col. 2, lines 70-73). Regarding claim 23, Ellis discloses of one or more flat magnets. (See Fig. 10 above). Regarding claims 24 and 32, Ellis discloses that each magnet is placed in an antimagnetic sheath that is capable of serving as an antimagnetic protection measure. Regarding claims 33 and 34, Ellis discloses of an elastic band (30) that is capable of detecting a closing or opening while serving as a release mechanism to control in the event specific conditions are not met.

***Claim Rejections - 35 USC § 103***

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 2, 11, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Wong (US Patent No. 6,378,174).

Regarding claim 2, Ellis discloses of magnet components (12AA, 12BB), but fails to teach of at least one magnetic component with a first layer of ferromagnetic soft lining elements.

Wong teaches of a garment magnetic fastener, which includes a magnetic element (7) with a first layer of ferromagnetic soft lining element (8). (See Fig. 4)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of a magnetic element with a first layer of ferromagnetic soft lining in the Ellis patent in view of the Wong patent in order to concentrate the magnetic force in a desired direction. (See col. 3, lines 61-65).



Regarding claim 11, Ellis discloses of fixed magnetic components in an embodiment illustrated in figure 11, but fails to teach of said magnetic component being inserted into a layer of elastic glue that is resistant to domestic washing.

Ellis teaches in a different embodiment in figure 3 where magnets are glued to cloth flaps. (See p. 2, col. 1, lines 5-10). Further, Wong teaches of a garment magnetic fastener that is washable.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of a magnetic component with a layer of glue that is resistant to domestic washing in the Ellis patent in view of the Wong patent since glue is an inexpensive alternative to stitches for the purpose of fixing the magnet onto a support. Also, it would have been inherently obvious for the magnetic component to be resistant to domestic washing since the intended use of the component is on garments and apparel accessories, which typically are washed on a routine basis.

Regarding claim 13, Ellis fails to disclose of a magnetic element with pieces at the ends with greater thickness conferring a U section to the component with said pieces covering at least part of the external sides of the magnetic element.

Wong teaches of a piece that confers a U section to the magnetic component and covers part of the external sides of the magnetic element. (See Fig. 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of the pieces that cover via a U-shape part of the magnetic element in the magnetic component in the Ellis patent in

view of the Wong patent in order to concentrate the magnetic force in a desired direction. (See col. 3, lines 61-65).

27. Claims 4 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis.

Regarding claim 4, Ellis fails to disclose in the embodiment in figure 10 of another element that is devoid of magnets and shaped from a layer of soft ferromagnetic elements.

Ellis discloses in a different embodiment in figure 3 of a magnet substitute (17) that is shaped from a layer of soft ferromagnetic elements. (See Fig. 3 and p. 2, col. 1, lines 17-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of an element devoid of magnets with a layer of soft ferromagnetic elements in order to demonstrate alternative placement of magnetic components along the garment.

Regarding claim 27, Ellis discloses in the embodiment in figure 11 of a mobile magnetic component (12BB) in a sheath that is laterally guided by guiding stem stitches. However, Ellis does not disclose of said stitches going through the said component.

Ellis, in another embodiment illustrated in figure 3, shows a magnetic component (13) with thread stitches (20) running through it.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of stitches running through

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the magnetic component in the first embodiment of the Ellis patent in view of the second embodiment of the Ellis patent in order directly secure the magnet to its support on the garment rather than rely on stitching that goes around the magnet forming a sheath; thus allowing the magnet to fall out of said sheath if the sheath were to rip open.

28. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Clark (US Patent No. 6,412,116).

Ellis discloses of magnetic components encased in sheaths, however Ellis fails to teach that said sheaths are reinforced and include an exterior of silicone.

Clark teaches of an magnetic garment closure involving magnetic disks (31) reinforced by in a silicone sheath (32). (See col. 2, lines 51-53).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of a sheath with silicone in the Ellis patent in view of the Clark patent in order to add flexibility and extra strength to the sheath. (See Clark col. 2, lines 51-53).

29. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Aoki (US Patent No. 4,991,270).

Ellis fails to disclose of magnets of the magnetic components having a concave shape and their opposite counterparts shaped in a convex form that is complementary to the concave shape.

Aoki teaches of a magnetic fastener with a magnets with concave form and their opposing counterpart magnet shaped in a complementary convex shape. (See Fig. 1 and col. 2, lines 47-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of magnets of concave and complementary convex shapes in the Ellis patent in view of the Aoki patent in order for the concave magnet to serve as a guide to the convex magnet; thus ensuring maximum contact between the two magnets. (See col. 3, lines 27-33).

30. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Hicks (US Patent No. 5,926,925).

Ellis fails to mention which family of metals the magnets are composed.

Hicks teaches of a magnetic garment holder that comprises of magnets of type neodymium-iron-boron.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of a magnet made from the family of rare-earth metals of the type neodyne-fer-boron in the Ellis patent in view of the Hicks patent because a neodymium-iron-boron magnet produces a desired high field strength. (See col. 5, lines 44-46).

31. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Wong (US Patent No. 6,662,349).

Ellis fails to disclose of a magnetic component that is entirely or partially protected by Nickel or Gold galvanization.

Wong teaches of a magnetic strap fastener that includes a magnetic component (10) that is partially protected by a Nickel-plated steel.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of a magnet that is partially or entirely protected by galvanized Nickel or Gold in the Ellis patent in view of the Wong patent in order to minimize corrosion on the magnetic component.

32. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Reiter (US Patent No. 6,647,597).

Ellis discloses of a first magnetic component in the form of a block, however the block is not hollowed out in the axial direction of a cylindrical hole. Also, Ellis does not teach of a second magnetic component, also in block form of identical size equipped with a nipple suitable for joining with the cylindrical hole of the first magnetic component.

Reiter discloses of a magnetic garment fastener made from a block with two cylindrical holes on the first magnetic component and complementary nipples on a second magnetic component of identical size. When joined, the two blocks leave space between the contacting walls. (See Fig. 30a).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teaching of two block magnetic components, one with cylindrical holes and the other component with complementary holes in the Ellis patent in view of the Reiter patent in order to minimize the sliding of the two magnetic components while in the coupled, attracted position. (See col. 5, lines 28).

***Allowable Subject Matter***

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33. Claims 12 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and rewritten to overcome the claim objections set forth in this office action.

34. Claims 10 and 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,682,653

US Patent No. 4,021,891

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marcus Menezes  
Examiner  
Art Unit 3677

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**